

## Listening Session: Downtown Businesses

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The Workplace Partnership Group conducted a listening session on Thursday, January 14, 2016, to engage employees and employers from businesses located in the city's downtown/central business district. The session was conducted at the offices of the Minneapolis Downtown Council, 81 S 9th Street, beginning at 4:30 p.m. The following is a summary of feedback from participants in this listening session.

*[The following questions established the broad framework within which participants were invited to provide feedback.]*

- How broadly or narrowly should the City of Minneapolis consider coverage to effectively address the public health and equity concerns associated with policies related to earned sick time and paid time-off?
- How should paid sick time and/or paid time-off be used? What are your experiences in offering this kind of coverage, or in using paid sick time?
- How should paid sick time and/or paid time-off be earned? Should it vary by hours worked, business sector, revenue, number of employees? Should it be capped?
- What, if any, measures should be considered to ensure workers are not penalized for using paid sick time, and to ensure that employers are not subject to undue hardship or abuse of such policies?

Some participants discussed the current benefits offered by their firms, which varied from one business to the next; however, some common trends included some amount of paid time-off (PTO) for workers, whether full-time or part-time status, along with other offerings, such as short-term and long-term disability. A professional services firm with 900 workers, of primarily full-time status, provided 20 days PTO, which was a combination of sick and vacation leaves, and used this as a recruitment tool to attract talent. A law firm located downtown described a similar situation for its administrative and operational positions, where a combined PTO benefit was provided to be used at the employee's discretion, with accruals based on tenure and increasing over time. A bank representative indicated that its employees were offered both sick and vacation leaves, with a 1/2 day of sick time accrued each month, and 4-6 weeks of vacation provided, both for full-time and part-time workers. New employees receive 120 hours per year (pro-rated, but accrues immediately), and this increases every 5 years. In addition, short-term disability was offered as part of the full benefits package. Employees also were able to donate accrued PTO hours to other workers, as necessary. Because employees often move between facilities located throughout the metropolitan area, there was concern about the cross-jurisdictional implications of how and when individual workers might become eligible for paid sick time or paid time-off, depending on whether they worked in Minneapolis or moved between facilities located in the city, even if primarily based outside the city. This elevated concerns about the practical implications of a policy limited only to Minneapolis, given the fluid nature of business operations across a close-knit metro community, as it would result in a one-off approach to administering benefits for employees. The majority of employer participants indicated they much preferred a universal PTO policy as opposed to separate sick time policies and policies related to other types of leaves; primarily, this was viewed as the most flexible approach, both for employers to administer and for employees to maximize their use for whatever purpose was needed, whether for sick time, family care, vacation, general health and wellness, etc. Some employer participants indicated that it would be difficult to unbundle consolidated PTO policies into separate leave policies for sick, vacation, and other uses.

One participant noted how, as a multi-state corporation, her business already was challenged to comply with similar policies enacted in California. Responding to questions, she indicated that the primary burden for the business related to the increased administrative aspects of tracking, monitoring and ensuring compliance, computing and maintaining records of leave time accruals and usage, the employee notices required, and similar aspects of those policies. She indicated it was difficult to track various policies and practices from state

to state, which resulted in the increased operating burden, which ultimately targeted bottom line costs for running the business. While she agreed that, overall, the proposal in Minneapolis was a positive concept, she believed the company already offered its workers very good leave policies that met the needs of its employees.

From the employee perspective, some indicated that they did not have PTO or paid sick time. This created hardships for the workers as well as their families, especially when dependents (e.g., children, elderly parents, etc.) were sick or there were other medical issues. Some expressed the stress associated with having to choose between keeping a job or possibly losing that job in order to care for themselves or their families. Equally, employee participants noted that workers most in need tended to be the front-line, entry-level workers who were most exposed to customers, other front-line co-workers, and—in some industries—the elements (weather, outside work conditions, etc.). As a result, the potential for getting sick, being exposed to someone who is sick, and potentially spreading illness was increased for these workers. One worker suggested that the true “bottom line” for businesses were their front-line employees—those offering direct services to customers. In that light, taking care of the bottom line meant taking care of employees, which translated into providing all workers with much-needed paid sick time so that their jobs were protected if and when they needed to be away from the job to care for themselves or loved ones. Moreover, if front-line employees are forced to work while sick, they are less productive, which also had a negative impact on the business. Some employee representatives expressed the need for a separate sick time policy that was not consolidated with other types of leave, as in a universal PTO policy, because workers were not always clear about the difference between types of leave (and employers were not always helpful in communicating about policies), and how PTO hours could be claimed and used for sick time as opposed to vacation, personal time, etc. Moreover, from the employee perspective, PTO required advanced approval for usage whereas sick time did not require advanced approval; and this requirement for advanced approval was at odds with the reality of calling-in sick, which was not known in advance and could be scheduled. Thus, from their perspective, many employee participants advocated for dedicated paid sick time versus PTO.

Employees also talked about the importance of work-life balance, and how some businesses tended to reward those who showed up to work even while sick. As a result, the overall culture tended to punish those who tried to take advantage of sick time and PTO policies, even when such benefits were provided. They reported instances where employees were pitted against each other and there was resentment and sometimes open hostility when having to cover for an employee who was absent because he or she was sick and not at work. As a result of these negative consequences—oftentimes reinforced by supervisors—employees chose not to take sick time or PTO. It was also indicated by some employees how if sick time or PTO was used, it could be used in a retaliatory way when performance reviews were given. These performance reviews were frequently used to determine employee eligibility for advanced benefits, such as tuition assistance or reimbursement, and were given as rewards to those who had no absences. This only further reinforced an operating culture where any absence—even if due to legitimate illness—was not feasible and there was competition among employees for the additional benefits.

Some employer representatives also expressed concern about the impact of a city policy on mandated sick leave on negotiated agreements with bargaining units, many of which have been in place for multiple years. Those agreements were very complex, and there was concern about potential legal conflicts as well, including potential pre-emption, which was part of the issue involved in the challenge to a similar municipal leave policy in Milwaukee, where the local policy was overturned in federal court based on application and potential conflict between federal and local laws. One employer participant noted that they had 10 labor unions and separate bargaining agreements; every time an issue was raised, there was careful negotiation with all interested parties, and accommodations had been reached with those 10 bargaining units over many years. It was unclear how a city policy on mandated sick time might impact those agreements, which could have serious economic impacts to the company.

Many employer participants indicated the challenges associated with part-time, seasonal, and temporary workers, and how a one-size-fits-all policy approach would be detrimental to business operations where

there was a preponderance of these types of workers. Where the work is, by nature, seasonal or temporary and is not the primary source of income for the workers, it seemed to be unreasonable to force businesses to make sick time accommodations, which some claimed would only negatively impact business operations and, in the end, potentially result in an overall reduction in the number of jobs or positions that could be made available. In that instance, it was a matter of providing a job—even a job without paid sick time—or having no job at all, and thus no earned income. Again, employers stressed the need to consider the broadest possible policy parameters, including potential exemptions for certain types of businesses or sectors of the economy, or even certain categories of workers (youth, seasonal, part-time, temporary, etc.).

One employer participant noted that Minneapolis had a 2.7% unemployment rate; thus, businesses that weren't competitive and didn't offer good benefits packages stood to lose to other companies and businesses, since workers had the ability—within reason—to shop for employment opportunities. In that light, the ability to offer competitive, desirable benefits packages was a tool used by companies to recruit and attract good workers. It was seen as a competitive advantage. If a city mandate on sick time were enacted, this could eliminate that tool. In that case, competition isn't within the city itself, but with businesses and business locations outside of Minneapolis, which could drive businesses to relocate based on marketplace competition. Some cautioned that this kind of competitive pressure in the marketplace, combined with the added administrative burden of managing a sick leave policy applicable only in Minneapolis, would potentially force many businesses to close and relocate outside of the city. These “spider legs” were described as the undesirable, unintended consequences of policies that negatively interfered with the marketplace, and were reasons for government to be very cautious at inserting itself into the relationships between employers and employees.

With respect to how broadly or narrowly any such policy proposal should be focused, most participants agreed that, if enacted, it should apply to all businesses based in Minneapolis and should be applicable to all employees doing work within the city. Thus, any earned sick time or PTO should be accrued by employees while working in Minneapolis. Some suggested consideration of a “primary work location,” to minimize the challenge of addressing workers who are only temporarily located within the city, or who are moving between facilities, provided that there was the ability to modify the designated “primary work location” to accommodate reassignments from time to time. Some employers also cautioned not to look too closely at similar policies in other jurisdictions, since employment laws could (and did) vary from one state to the next; therefore, what worked in one state may not be possible in Minnesota, given different employment and labor laws. They suggested it was not as simple and clear-cut as suggesting that a policy in San Francisco could be used as a cut-and-paste template in Minnesota or Minneapolis.

Some expressed concern that attempting to develop a uniform policy tended to quickly escalate to the impact on white-collar jobs and office/administrative positions, the majority of which already had good benefits packages that included some form of paid sick or PTO hours. Therefore, many participants urged first consideration be given to the impact on low-wage, entry-level workers—if possible—to avoid any effort to avoid providing much-needed relief to those most in need of these policies. A potential phased-in approach that first focused on entry-level workers might be one way of testing the success of a policy that could function better as a uniform mandate, particularly if it were crafted as a “minimum standards,” where it set a floor for the kinds of benefits required for all workers in the city. Businesses could provide better benefits, but would be required to at least provide a certain level of paid sick time (or PTO) to all workers.

It was suggested that, as a starting point for purposes of discussion, a minimum of 12 sick days earned per year, essentially one per month, would possibly set a base benefit for workers that could be tolerable for employers. However, this minimum standard was for earned sick time, and was not to be confused by other discussions related to a more generalized PTO policy. Many employee participants reiterated the need to distinguish between earned sick time and paid-time off (PTO), which was not seen as being interchangeable by many employees. PTO was for planned absences, vacation time, general health and wellness (e.g., “mental health days”), whereas sick time was to protect a job when you were unable to attend and work because you were sick. Those circumstances were unplanned and not easily scheduled in advance.

Employees also liked the ability to bank their PTO hours, whereas sick time hours were used for that specific purpose. Some employees felt that consolidated policies actually diminished their ability to claim access to dedicated “sick time,” and, thus, reduced their overall benefits. Employee participants urged the Workplace Partnership Group not to get too caught up in a universal PTO policy as being the best option, since the right amount of sick days could easily get lost in the larger context of a PTO policy.

Some employer participants indicated the possibility of needing to distinguish between a full-time position that serves as the worker’s “primary wage-earning job” and a secondary job that was intended to supplement a person’s total income. Perhaps the universal policy should relate only to a “primary wage-earning position,” which could help mitigate unintended consequences to small businesses that heavily relied upon part-time, seasonal, and temporary workers.

It was pointed out that while the majority of workers in Minneapolis had access to good benefits, including paid sick time and/or PTO equivalents, there still remained approximately 40% of workers who lacked access to these benefits. So, developing a policy that could focus on those 40% without such access would be a good starting point; this implied a universal policy would not be the objective, rather it would be to focus on getting a minimum standard of workplace policies addressed that ensured all workers received essential benefits, including paid sick time, which helped to move the dial in addressing both public health and disparity/equity objectives identified by the City of Minneapolis. Both employer and employee participants agreed that one goal was identifying those businesses that didn’t provide a minimum level of such benefits, and to target them rather than enact sweeping legislation that could have significant negative implications or consequences.

Some pointed out that when discussion first started, under Mayor Hodges’s proposed “Working Families Agenda,” the proposal was to accrue 1 hour of sick time for every 30 hours worked. This seemed to be a sensible approach, since it based accruals on actual hours worked. Many agreed the benefit should be earned, and agreed with tying the benefit to a set number of hours. Some repeated concerns about the need for potential exemptions for certain types of businesses or for certain categories of workers. Again, the need for a mechanism within any policy proposal to address existing bargaining agreements was emphasized, particularly to offset any negative consequences to those arrangements, including any benefits programs that satisfied the basic intent of the city’s policy. The idea of using the city policy as a kind of “floor” with minimum required benefits was repeated as a better strategy; thus, those businesses that provided the equivalent or better might be exempt from the policy completely. That would further alleviate any additional administrative burden to those businesses, and would, in fact, serve as a type of incentive because (1) businesses satisfying the city’s minimum policy requirements might be exempt and (2) businesses that provided better benefits could still position themselves competitively within the marketplace.